

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NICOLAS S. NICOLAS,

Plaintiff,

V.

**DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS INDENTURE
TRUSTEE FOR AMERICAN HOME
MORTGAGE INVESTMENT TRUST
2006-3 and PHH MORTGAGE
CORPORATION,**

Defendants.

CIVIL ACTION NO. 4:20-cv-1263

AGREED MOTION TO AMEND SCHEDULING ORDER

Defendants PHH Mortgage Corporation and Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2006-3 (collectively, the “***Defendants***”) and Plaintiff Nicolas S. Nicolas (“***Plaintiff***”) (collectively, the “***Parties***”) file this Agreed Motion to Amend Scheduling Order, and would respectfully show the Court as follows:

1. On March 3, 2020, Plaintiff initiated this action by filing his Complaint in the Montgomery County District Court, which Defendants subsequently removed to this Court.¹

2. The Court issued a Scheduling and Docket Control Order (the “**Order**”) on September 15, 2020.² Pursuant to the Order, the deadline to file dispositive and nondispositive motions was August 20, 2021, and the deadline to mediate or conduct a settlement conference before the Magistrate Judge is October 1, 2021.³ Defendants timely filed a Motion for Summary Judgment on August 20, 2021.⁴ Plaintiff filed his response on September 17, 2021, and Defendants

¹ Doc. No. 1.

² Doc. No. 10.

³ *Id.*

⁴ Doc. No. 12

filed a reply on September 24, 2021.⁵ The Parties reached out to the Court on or about September 20, 2021 regarding potential dates for a settlement conference. A settlement conference is currently scheduled for November 8, 2021, at 9:00 a.m., with Magistrate Judge Sam S. Sheldon.⁶ Prior to the scheduling of the settlement conference – and throughout the pendency of this case – the Parties have had extensive discussions regarding an informal resolution of the case structured around a possible modification of Plaintiff’s loan. The Parties were hopeful that they could reach an informal resolution without the need for a settlement conference, but have not reached any such resolution to date.

3. In order to complete the settlement conference before the scheduled deadline for submission of the Joint Pretrial Order and Motions in Limine, the Parties respectfully request an extension for these deadlines.

4. The rationale for the additional extension is that the Parties were unable to obtain a date for the settlement conference that was within the bounds contemplated by the Scheduling Order. In light of these factors, the Parties request a 75-day extension of the present settlement conference, pretrial order, and docket call deadlines. This will place the deadline for the settlement conference on December 15, 2021; the deadline to file the joint pretrial order on January 18, 2022; and docket call on March 7, 2022.

5. This motion is not made for delay but so justice may be done.

For these reasons, Defendants and Plaintiff respectfully request the Court grant this Agreed Motion to Amend Scheduling Order.

⁵ Doc. Nos. 17, 20.

⁶ Doc. No. 18.

Respectfully submitted,

By: /s/ Greg DeVries

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ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I hereby certify that on September 20, 2021, I contacted counsel for Plaintiff by email to confer regarding the relief sought in this motion. Counsel for Plaintiffs indicated that Plaintiffs agree to the relief sought in this motion.

/s/ Greg DeVries

GREG DEVRIES

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2021, a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing has been forwarded to all parties, by and through their attorneys of record, by operation of the Court's electronic filing system or by other means in accordance with the FEDERAL RULES OF CIVIL PROCEDURE.

Via CMRRR and/or
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/s/ Greg DeVries

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